

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

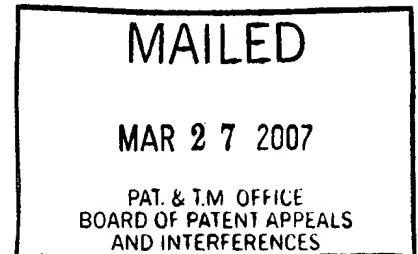
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID B. KUMHYR
and MARGARET GARDNER MACPHAIL

Appeal 2007-0352
Application 09/996,130
Technology Center 2100

Decided: March 27, 2007



Before JAMES D. THOMAS, KENNETH W. HAIRSTON and
JAY P. LUCAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellants have appealed to the Board
from the Final Rejection of claims 1 through 21.

As representative of the disclosed and claimed invention, independent claim 1 is reproduced below:

1. Method of allocating data objects stored on a server system comprising:

providing at least one user group;

determining tag information for the data objects;

determining at least one group interest for the user group;

determining whether the tag information corresponds to the group interest, and if there is correspondence, placing data objects including tag information of said group interest into a server cache.

The following references are relied on by the Examiner:

Herz ¹	US 6,029,195	Feb. 22, 2000
Jacobs	US 6,789,170 B1	Sep. 7, 2004
		(Filed Aug. 4, 2001)

Claims 1 through 21 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Herz in view of Jacobs.

Rather than repeat the positions of the Appellants and the Examiner, reference is made to the Brief and Reply Brief for Appellants' positions, and to the Answer for the Examiner's positions.

¹ Page 3 of the Answer incorrectly listed the patent number of the Herz patent as 6,789,170, which is the corresponding patent number of Jacobs. Consistent with the Final Rejection and the Brief, the Statement of The Grounds of Rejection beginning at the bottom of page 3 of the Answer correctly lists the patent number as indicated above.

OPINION

Generally for the reasons set forth by the Examiner in the Answer, as amplified upon here, we sustain the rejection of all claims on appeal under 35 U.S.C. § 103. Appellants present arguments as to independent claims 1, 11 and 21 collectively, from which we take claim 1 as representative. No arguments are presented before us as to any dependent claims on appeal.

At the outset, we begin by noting that Appellants' Specification page 1, lines 22 through 25, indicates that prior art approaches have been developed to strategically "place often accessed data objects in a disk cache thereby reducing access and download times. For example, 'popular' Web pages may be placed in the disk cache to anticipate future access demands."

We generally agree with the Examiner's assessment of Herz and Jacobs as they apply to the claimed invention. We especially note the evidence provided by the Examiner's identification of particular portions of the respective references that correlate to each feature claimed in representative independent claim 1 on appeal as expressed initially at pages 3 and 4 of the Answer as to the statement of the rejection of independent claim 1 on appeal and the corresponding responsive remarks at pages 7 and 8 of the Answer.

We part company slightly from the Examiner's positions by noting the discussion at the middle of column 8 of Herz's pre-caching of data teaches the concept of caching at the end of representative independent claim 1 on appeal whereas the Examiner believes at the top of page 4 of the Answer that Herz fails to teach a server cache. Indeed prior art figure 1 and system

figure 2 of Herz do utilize corresponding mass storage (disk) devices SS associated with the servers.

In context of the concept of pre-caching just noted, the artisan would well appreciate that the alleged deficiency from the Examiner's point of view is actually taught in Herz. This consideration is buttressed by Appellants' own recognition of the prior art at Specification page 1 that such corresponding disk drive or disk arrays are utilized in a caching environment to reduce access and download times as noted earlier. Indeed, the Examiner has readily pointed out that the teaching value of Herz's approach is to enable "a user to access information of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy" as expressed at column 4, lines 28 through 32 of Herz.

To buttress the Examiner analysis of Herz, we note the direct pertinence of the Abstract of this reference as well as the lengthy Summary in this reference at columns 4 through 8 under the caption "SOLUTION". Even this portion of Herz contravenes Appellants' assertion that Herz merely discloses that attributes for a single user are maintained as expressed at the bottom of page 9 of the Brief. The reference plainly teaches not only this capability but the ability to generate target profiles for each target object, to generate user interest feedback from a user, to construct a target profile interest summary for each user and then to process the respective profiles in such a manner to arrive at group relationships best characterized by the discussion in the paragraph at the middle of column 8 of this reference which teaches the construction of virtual communities of people with common interests based upon these profiles. This Virtual Community

System VCS is discussed at length at columns 80 through 96 of Herz. It is thus readily apparent that we cannot agree with Appellants' assertion at the top of page 10 of the Brief that Herz does not teach determining a group interest of a user group, only the concept of comparing profiles for target objects. Herz repeatedly teaches the ability to group people by their interests, which are determined by determining the similarities among users and their respective user profiles.

We thus strongly believe that it is apparent to the artisan that the teachings of Jacobs relied upon by the Examiner are merely cumulative as they are applied to independent claim 1 on appeal to what we have already identified as pertinent teachings in a general sense in Herz. In contrast to the views expressed at page 9 of the Brief, Jacobs actively teaches the concepts of caching or to cache data for subsequent use as expressed in the Summary of The Invention and shown in figures 2 and 3 of that reference.

Appellants' view that Jacobs cannot be combined with any reference appears to be based upon a structural combinability approach to Jacobs in view of Herz, which approach is not a proper means of analysis within 35 U.S.C. § 103. The Examiner has identified and we have embellished upon pertinent teachings of the references.

Likewise, it cannot be accurately stated that the references teach away from their combinability with each other in the first instance since we consider Jacobs to be merely cumulative to what is already taught in Herz as expressed earlier in this opinion. There is no apparent active discouragement to an artisan to follow the approach followed by Appellants in the claimed invention in any one or both of the applied prior art.

Moreover, the titles of both references relate to customizing identifying data and the accessibility of server-based data objects. The cache system 104 in figure 1 of Jacobs correlates to the mass storage devices of figure 1 and 2 of Herz and the discussion at Specification page 1 of the prior art. It is stated at lines 48 and 49 of column 4 of Jacobs that this cache system “caches data stored on server 102 for faster serving to clients.” Therefore, the artisan would well appreciate the compatibility of the teachings of both prior art references to achieve a unified system that would operate in an expeditious manner to cache server-based data objects.

Lastly, it is apparent there is no merit to Appellants’ allegation that there is no motivation to combine the respective teachings, and there is no evidence to us of any impermissible hindsight utilized by the Examiner in combining the respective teachings of the applied prior art. The remarks in the Reply Brief appear to be essentially a restatement of the positions set forth in the Brief. Those remarks in the Reply Brief as well make no reference to the Examiner’s Responsive Arguments at pages 7 and 8 of the Answer.

In view of the foregoing, the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR §1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

PGC

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